

(1)

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1087/2002

MOTYA & ORS. Vs. STATE OF RAJASTHAN & ANR.

DATE: 17.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. V.S. Chouhan for the accused-petitioners.
Mr. B.K. Sharma, Public Prosecutor for the State.
Mr. Munindra Singh for the complainant-respondent.

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioners against the order dated 03.11.2001 passed by the Judicial Magistrate, Tonk in Case No. 364/2001, whereby the trial Court took cognizance against the accused-petitioners for the offence under Section 420 IPC.

Learned counsel for the petitioners submits that no forgery is proved and the cognizance taken by the trial Court against the accused-petitioner for the offence under Section 420 IPC is contrary to the facts. He also referred the order dated 22.11.2000 passed by the Additional Divisional Commissioner, Ajmer to show that the dispute of mutation has been decided in his favour.

(2)

Learned counsel for the petitioners further placed reliance on the judgment rendered by this Court in the case of ***Ramotar & Ors. Vs. State of Raj. & Anr., 1989 Cr.L.R. (Raj.) 380***, wherein it has been held by this Court that civil litigation pending about disputed property- Criminal proceedings are co-terminus to civil proceedings when subject matter is same.

I have heard learned counsel for the accused-petitioners, learned Public Prosecutor for the State as well as learned counsel appearing for the complainant-respondent and have also gone through the impugned order dated 03.11.2001 passed by the trial Court.

It is apparent from the impugned order that cognizance has been taken against the accused-petitioners for the offence under Section 420 IPC and whatever the legal issues raised here in the revision petition before this Court can be raised at the time of framing charge. For taking cognizance it is only to be seen by the Court below whether prima-facie case is made out against the accused or not, and here in the instant case the trial Court has arrived at a conclusion that prima-facie case under Section 420 IPC is made out against the accused-petitioners and therefore, cognizance for the aforesaid offence has been taken by the trial Court.

(3)

Learned counsel for the respondent has raised an objection that the petitioners have got alternative efficacious remedy of revision before the District & Sessions Judge which has not been availed by them.

Even otherwise on merits also, at this stage against the order of cognizance I find no merit in the revision petition as the petitioners are at liberty to raise all the legal, just and proper submissions before the trial Court at the time of framing charge.

In view of these facts, I find no merit in the revision petition. No interference whatsoever is required by this Court.

Consequently, the revision petition fails and is hereby dismissed.

(K.S. RATHORE), J.

/KKC/